

**REMARKS**

In the Office Action, the Examiner indicated that Claims 1, 5, 6, 12-14, 17 and 27 are pending in the application. The Examiner rejected all claims. In view of the following remarks responsive to the final Office Action dated July 26, 2007, Applicant respectfully requests favorable reconsideration of this application.

**Specification Objection**

On page 2 of the Office Action, the Examiner indicated that the title of the invention is not descriptive. In response, Applicants have amended the title in accordance with the Examiner's suggestion.

**Claim Rejections, 35 U.S.C. §§ 102 and 103**

Applicant respectfully thanks the Office for the withdrawal of the previous rejection of the claims in view of Applicant's response to the previous Office Action. In this latest Office Action, however, the Office has rejected all the claims based on new prior art grounds.

On page 2 of the Office Action, the Examiner rejected claim 17 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,126,588 B2 to Oakley ("Oakley"). On page 5 of the Office Action, the Examiner rejected claims 1, 5, 6 and 12-14 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,197,332 B2 to Andersson

et al. ("Andersson") in view of Oakley. On page 7 of the Office Action, the Examiner rejected claim 27 under 35 U.S.C. §103(a) as being unpatentable over Anderson in view of Oakley. These rejections are respectfully traversed.

### **The Present Invention**

The present invention is a portable electronic communication apparatus, such as a cellular telephone, comprising two housing portions connected to each other in such a way that permits the two housings to be positioned in at least three positions relative to each other, including an open position and two closed positions. Each housing has first and second opposing major surfaces. One surface of the first housing includes a display user interface and one surface of the second housing includes a second user interface, such as a keypad or a second display. The device has at least three modes of operation, the particular mode of operation being dictated by the position of the two housings relative to each other as detected by a position detecting mechanism. In a preferred embodiment, the two housings are connected by a pivot that permits the two housings to be (1) aligned end to end in the open position, (2) folded towards each other in a first closed position such that the two user interfaces are both accessible, and (3) folded toward each other in a second closed position such that the two user interfaces are closed toward each other so that they are both inaccessible. The positioning of the two housings dictates the mode of operation of the device so that (1)

when the housings are in the open position, the device is in a fully operational mode in which the first and second user interfaces are both active, (2) when the housings are in the first closed position such that the two user interfaces are both accessible, the device is in a standby mode of operation in which one user interface is inactive and one user interface is active, and (3) when the housings are in the second closed position such that the two user interfaces are both inaccessible, the device is in a mode of operation in which both user interfaces are inactive.

**U.S. Patent No. 7,126,588 B2 to Oakley**

U.S. Patent No. 7,126,588 B2 to Oakley ("Oakley") teaches a multiple mode display device that has a display area 114, a base housing 112, and a keyboard housing 111 (Fig. 1). The keyboard housing 111 and the base housing 112 are independently rotatable around the same edge of the display area. Both the keyboard housing 111 and the base housing 112 can be rotated a full 360 degrees so that they may close adjacent to the display side of the display area (Fig. 13) or against the back side of the display area (Fig. 12). In column 5, lines 29-30 and 41-43, Oakley discloses that the display and the keyboard are active when the device is open. In column 10, lines 1-10, Oakley discloses that when the device is closed as shown in Fig. 13, the device is in a standby or shut down configuration. No description is given to define a standby or shut down configuration. In column 9, lines 65-67, Oakley discloses that

when the device is in the configuration of Fig. 12, the display is active. There is no indication, with regard to the configuration of Fig. 12, of whether the keyboard is accessible and/or active.

**7,197,332 B2 to Andersson et al.**

7,197,332 B2 to Andersson et al. ("Andersson") teaches an electronic device that has a keyboard panel and a display panel that are rotatable around an axis that joins them. The panels are rotatable for a full 360 degrees so that they may be closed adjacently on either side of the modules.

**Oakley Does Not Anticipate Claim 17**

The MPEP and case law provide the following definition of anticipation for the purposes of 35 U.S.C. § 102:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 citing *Verdegaal Bros. v. Union Oil Company of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987)

**The Examiner Has Not Established a *Prima Facie* Case of Anticipation**

As noted above, the present claimed invention has first and second housings, each including a user interface, and at least three modes of operation, the particular mode of operation being dictated by the position of the two housings relative to each

other as detected by a position detecting mechanism. Claim 17 recites that (1) when the housings are in the open position, both user interfaces are accessible and the device is in a fully operational mode in which the first and second user interfaces are both active, (2) when the housings are in a first closed position, the two user interfaces are both accessible and the device is in a standby mode of operation in which one user interface is inactive and one user interface is active, and (3) when the housings are in the second closed position, the two user interfaces are both inaccessible and the device is in a mode of operation in which both user interfaces are inactive.

The Examiner states that Fig. 12 and column 9, lines 57-65 of Oakley disclose the second mode of operation in which both user interfaces are accessible, with one of the user interfaces being active and the other being inactive. However Fig. 12 of Oakley only shows that one of the user interfaces (the display 1214) is accessible. The other user interface (the keyboard) is not shown. Similarly, the cited passage states only that the display is active. Nowhere does Oakley mention whether or not the keyboard is either accessible or active in the configuration shown in Fig. 12. For this reason, Oakley does not suggest or disclose the invention of claim 17 of the present invention.

Therefore, independent claim 17 patentably defines over Oakley and is in condition for allowance.

**The Examiner has not Established a *prima facie* Case of Obviousness**

Similar to claim 17, claim 1 of the present invention recites that (1) when the housings are in the open position, the device is in a fully operational mode in which the first user interface is active, (2) when the housings are in a first closed position, the first user interface is accessible and the device is in a standby mode of operation in which the first user interface is inactive, and (3) when the housings are in the second closed position, the first user interface is inaccessible and inactive.

The Examiner acknowledges on page 6 of the Office Action that Andersson fails to disclose a first closed position such that the apparatus is in a standby mode of operation of the user interface in which the first user interface is inactive, a second closed position such that the apparatus is in a second mode of operation of the user interface in which the first user-interface is inactive, and an open position such that the apparatus is in a third mode of operation of the user-interface comprising a fully operational mode of operation in which the first user interface is active. However, similar to claim 17 of the present application, the Examiner states that these limitations are disclosed by Oakley.

As discussed above, Fig. 12 of and column 9, lines 65-67 Oakley, which the Examiner asserts as disclosing the second mode of the present invention, does not disclose that a user interface is both accessible and inactive. In Fig. 12 and column 9, lines 65-67 of Oakley, the display 1214 is both accessible and active. It is not disclosed

whether the keyboard housing 1211 is either accessible or active. Thus, there is no disclosure of a user interface that is accessible but inactive, as recited in claim 1 of the present application. Thus, the combination of Andersson and Oakley does not disclose or suggest the invention of claim 1. For this reason, independent claim 1 patentably defines over Andersson in view of Oakley and is in condition for allowance.

Accordingly, each of the independent claims (1 and 17), and all claims depending therefrom, patentably define over the prior art of record and are in condition for allowance.

### **Conclusion**

In view of the foregoing amendments and remarks, this application is now in condition for allowance. Applicant respectfully requests the Examiner to issue a Notice of Allowance at the earliest possible date. The Examiner is invited to contact Applicant's undersigned counsel by telephone call in order to further the prosecution of this case in any way.

Group Art Unit: 2681  
Application No. 10/700,189

Docket No. Bennetts 2-5

The Commissioner is hereby authorized to charge any fees which may be required, any deficiencies that may arise, and to credit any overpayment which may be owed to Applicant in connection with this action and application in general to Deposit Account No. 19-5425.

Respectfully submitted,

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